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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,544	01/29/2004	David Butters	T9183 . A. 1	5844
20450	7590	06/30/2005	EXAMINER	
ALAN J. HOWARTH P.O. BOX 1909 SANDY, UT 84091-1909			RUDDOCK, ULA CORINNA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/769,544

Applicant(s)

BUTTARS, DAVID

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/28/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a bib device, classified in class 442, subclass 1+.
 - II. Claims 14-20, drawn to a method for using a bib device, classified in class 180, subclass 69.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used in another process, i.e. by using an adhesive to adhere the bib device to the member to be protected.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Alan Howarth on June 20, 2005, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mudge et al. (US 4,661,389). It should be noted that a recitation with respect to the manner in which a claimed product is intended to be employed does not differentiated the claimed product from a prior art product satisfying he claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Therefore, the limitation of a "moldable bib device for providing protection from contact with a liquid spill and for channeling spilled liquid into a container" has not been given patentable weight. Mudge et al. disclose a multiple layer reinforced laminate. This laminated sheet product is reinforced with composite heat sealable plastic strands (abstract). The net-like strands (col 2, ln 48-50) are sandwiched between layers of outer covering material which may be paper, e.g. coated paper (col 1, ln 13-15). The invention provides improved reinforced absorbent toweling (col 1, ln 18-19). It should be noted that the Examiner is equating the grid of flexible wire to be the net-like strands of Mudge et al. Furthermore, the Examiner is equating the liquid impervious material of the present invention to the covering material of Mudge et al. With regard to claim 5, it should be noted that paper toweling has been used to absorb various fluids, including

water. With regard to claims 3 and 9, the netting is sandwiched between the paper via heat bonding and pressure sealing (col 1, ln 35-37).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mudge et al. (US 4,661,389), as shown above, in view of Dupuis (US 3,156,402). Mudge et al. disclose the claimed invention except for the teaching that the liquid impervious material is waxed paper.

Dupuis discloses a liquid absorbing structure composed of two superposed sheets of material (col 2, ln 11-12) that can be waxed paper (col 2, ln 38-40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the waxed paper of Dupuis as the coated paper of Mudge et al., motivated by the desire to obtain absorbent toweling having increased tear resistance.

9. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mudge et al. (US 4,661,389), as shown above, in view of Garnatz (US 4,875,537). Mudge et al. disclose the claimed invention except for the teaching that the bib device has a shape selected from the group consisting of square, rectangular, circular, oval, or triangular. Garnatz discloses a drip pad that is

rectangular. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the toweling of Mudge et al. to be rectangular as taught by Garnatz, motivated by the desire to obtain toweling with ease of storage.

10. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mudge et al. (US 4,661,389), as shown above, in view of Kishi et al. (US 3,877,576). Mudge et al. disclose the claimed invention except for the teaching that the bib device is configured as a strip of sheets and each of said sheets is connected to each adjacent sheet at a line of perforations such that said sheets are separable from adjacent sheets. Kishi et al. disclose a toilet paper roll that is provided with perforations lines. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used Kishi's method of providing perforation lines on the toweling of Mudge et al. motivated by the desire to obtain toweling with handling convenience.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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